

4. In connection with issuing the search warrant for AOL Inc., the District Court entered an Order directed to “SCA BEN SMITH” that required Smith “to prepare a written inventory of the property / information seized and to return this warrant together with the written inventory and the seized property / information before me shortly after receiving the same from AOL INC., to be sealed pursuant to the accompanying order sealing search warrant records[.] *See* Ex. 1 at p. 4 (Search Warrant: SAC County Attorney Ben Smith and / or Any Peace Officer in the State of Iowa dated July 1, 2014 (“Order to Smith”)). The Order to Smith “FURTHER ORDERED that the content of messages / items provided by AOL Inc. . . . that are not seized . . . SHALL BE KEPT CONFIDENTIAL and the Sac County Attorney’s Office SHALL DESTROY copies of those items not relevant / seized pursuant to Section II of Attachment B[.]” Ex. 1 at p. 4.
5. Notwithstanding the order’s directive to seal items relevant to the alleged crimes and keep confidential and destroy any message or item provided by AOL Inc. that did not “relate to the crimes alleged in the Affidavit,” Ex. 1 at p. 4, Smith admittedly disclosed confidential records obtained pursuant to the AOL Search Warrant to John Brewington, Michael Roberts, and Scott Connelley. *See* Tr. of Prelim. Inj. Hearing dated May 1, 2015 (excerpt), attached as **Exhibit 2**, at 70:18-21, 71:16-72:20; *see also* Ex. 8 to May 1, 2015 Preliminary Injunction Hearing.
6. Smith applied for and caused a County Attorney Subpoena Duces Tecum to be issued to Bank of America, in connection with a purported criminal investigation, that compelled Bank of America to produce “All BANK OF AMERICA accounts belonging to / in the name XCENTRIC VENTURES / RIPOFF REPORT” and

“MARTIN & SILVA MADGESON TRUST” along with various other entities. *See* Cnty. Attorney Subpoena Duces Tecum Documents to Bank of America (“Bank of America Subpoena”), attached as **Exhibit 3**, at pp. 1, 9, 11.

7. Smith submitted to the District Court a proposed Order for County Attorney Subpoena Duces Tecum to Issue, which he presumably drafted, that expressly “ORDERED [that] the information gathered under said subpoena shall be kept confidential and no further dissemination of said information shall be permitted until further ordered of this Court [sic].” Ex. 3 at p. 5
8. Smith admittedly disclosed Xcentric’s confidential financial information, which he obtained pursuant to the Bank of America Subpoena, to John “Brewington, [Michael] Roberts, and possibly Scott Connelley.” *See* Tr. Dated June 7, 2016 (Depo. of Ben Smith) (excerpt), attached as **Exhibit 4**, at 182:20-183:1. Smith also admittedly allowed John Brewington to download and review Xcentric’s bank records, which he obtained in response to the Bank of America Subpoena. Ex. 4 at 183:2-8; Ex. 2 at 105:19-22.

Dated January 13, 2017.

Joel B. Robbins*
Lead Counsel for Plaintiffs
Robbins & Curtin, PLLC
301 East Bethany Home Road
Suite B-100
Phoenix, Arizona 85012
Phone: 602-285-0100
Fax: 602-265-0267
E-mail: joel@robbinsandcurtin.com

Angela L. Campbell AT# 0009086
Local Counsel for Plaintiffs
DICKY & CAMPBELL LAW FIRM,
P.L.C.
301 East Walnut Street
Suite 1
Des Moines, Iowa 50309
Phone: 515-288-5008
Fax: 515-288-5010

*Admitted pro hac vice

E-mail: angela@dickeycampbell.com

/s/ Maria Crimi Speth

Maria Crimi Speth*
Lead Counsel for Plaintiffs
Jaburg & Wilk, P.C.
3200 North Central Avenue
Suite 2000
Phoenix, Arizona 85012
Phone: 602-248-1089
Fax: 602-248-0522
E-mail: mcs@jaburgwilk.com
*Admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2017, I electronically filed this document with the Clerk of the Court using the ECF system which will serve it on the appropriate parties.

/s/Maria Crimi Speth